

COPY OF PAPERS
ORIGINALLY FILED

Attorney Docket No.: 23091/8 (ACT-141P)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Dan A. Steinberg, David W. Sherrer, Mindaugas F. Dautartas and
Robert G. Schinazi

EXAMINER: Unknown GROUP ART UNIT: 2874

SERIAL NO.: 10/037,971

FILED: October 24, 2001

FOR: *Fiber Array with V-Groove Chip and Mount*

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage in an envelope addressed to: BOX MISSING PARTS, Assistant Commissioner for Patents, Washington, DC 20231 on:

By:

Deborah Celeste

Date:

BOX MISSING PARTS
Assistant Commissioner for Patents
Washington, DC 20231

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AUG 29 2002

OFFICE OF PETITIONS

PETITION UNDER RULE 37 CFR 1.47

Dear Sir:

The below signed attorney for the applicant hereby sets forth the following facts to support the filing of the above-identified application without the signature on the declaration of one of the inventors. This petition is being submitted together with a response to Notice of Missing Parts dated March 19, 2002, filed herewith.

To the best of my information and belief of the pertinent facts, one of the co-inventors, Dan A. Steinberg, refuses to sign the declaration. The other co-inventor has signed the declaration.

On information and belief, the following are the pertinent facts (listed as 1 through 6):

1. The company where all the inventors were/are employed (Haleos Inc.) is in Chapter 11 bankruptcy proceeding. Mr. Sherrer informed me that he attempted to reach Mr. Steinberg personally, Mr. Steinberg was asked to sign the application, and that Mr. Steinberg refused to sign the application. Mr. Sherrer told me that Mr. Steinberg also gave the same answer regarding other pending applications where he is listed as an inventor. I attach to this declaration an e-mail from Mr. Sherrer with a detailed description of his communication with Mr. Steinberg regarding this and other pending patent cases.

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2. Mr. Sherrer informed me that due to the company's current financial situation the company was shut down during the last two weeks (weeks of August 5th and July 29th of 2002), which made it close to impossible to pursue this matter further during those two weeks.
3. Mr. Steinberg is a registered patent agent (Reg. No. 45129, 410 Lee Street, Blacksburg VA USA 24060, the address listed in the PTO's roster of attorneys and agents), who is certainly aware of the application, its contents and the importance of the inventor's signature.
4. During years 2000, 2001, and 2002 the company filed more than 100 patent applications. Due to the Chapter 11 bankruptcy proceedings, Mr. Sherrer's company could not keep a number of applications pending, so they went abandoned. The company tries to maintain as many applications covering its valuable technology pending as possible and, hopefully, have them examined and later issued as patents.
5. My firm was asked to assist Haleos Inc. in the task of keeping the pending applications alive, receiving the final authorization to proceed about 4 weeks ago. We are trying to save numerous applications with impending bar dates/expiring statutory periods, and while the best possible efforts to preserve the patent portfolio have been made, the company's shut down has made it close to impossible to obtain documents pertinent to the pending cases.
6. As stated by Mr. Sherrer, all inventors are under the obligation to assign the invention to Haleos.

The applicants will be irreparably damaged by the loss of benefit of the application due to Mr. Steinberg's refusal to sign the declaration. Due to the expiration of the statutory period of pendency of the above-referenced application October 19, 2002 (the last day to respond to the Notice to File Missing Parts) and the current Chapter 11 proceedings (Bankruptcy Case 7-02-01979-RKR, U.S. Bankruptcy Court for the Western District of Virginia, Roanoke Division), yet another application protecting the technology which is the claimed subject matter of the above-identified application may go abandoned.

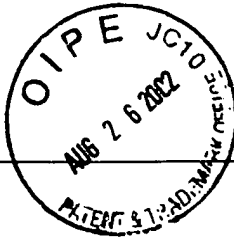
If any additional information is required in connection with this petition, please contact the undersigned. Please charge the fee due with this petition to our deposit account 500369.

Respectfully submitted by:

Maria Eliseeva

Maria Eliseeva, Reg. No. 43,328
 Attorney for Applicants
 Brown Rudnick Berlack Israels LLP
 Customer No. 21710, Box IP
 One Financial Center
 Boston, MA 02111
 Phone: 617-856-8340
 Fax: 617-856-8201

Date: Aug. 19, 2002

COPY OF PAPERS
ORIGINALLY FILED**Eliseeva, Maria M.**

From: David W. Sherrer [dsherrer@haleos.com]
Sent: Tuesday, August 13, 2002 5:03 PM
To: Eliseeva, Maria M.
Subject: Hostile Inventor

Maria,

Dan Steinberg has stated to numerous persons including myself, our CTO Mino Dautartas, and others here that he will not sign the declarations. I attempted formally to contact him via phone on 7/19 but was unable to get anything but a fax tone from his only known phone number. I thus faxed the declaration with a request to sign and fax back to our fax number. Dan, being our in-house patent agent, is well aware of all the cases and the procedures. Dan also is fully aware he signed a patent assignment agreement when he joined the company.

Unfortunately, Dan is one of the only hostile employees we have. There was no response from him regarding the fax until several days later. Dan stated word for word "I am not going sign this assignment." I have this as a voice mail archived on my phone. Dan has stated that there may be certain terms that could be negotiated, however we are not in a position to make this happen.

Please let me know if there is anything else I need to document regarding this issue.

Thanks,

David

8/19/2002



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By:

Maria Eliseeva
Maria Eliseeva

Date

Aug. 19, 2002

BOX MISSING PARTS
Assistant Commissioner for Patents
Washington, DC 20231

PETITION UNDER RULE 37 CFR 1.47 (INVENTOR COULD NOT BE REACHED)

Dear Sir:

The below signed attorney for the applicant hereby sets forth the following facts to support the filing of the above-identified application without the signature on the declaration of one of the inventors. This petition is being submitted together with a response to Notice of Missing Parts dated March 19, 2002, filed herewith.

On information and belief, the following are the pertinent facts (listed as 1 through 5):

1. The company where all the inventors were/are employed (Haleos Inc.) is in Chapter 11 bankruptcy proceeding. Employees of the company were laid off several months ago and may have moved to other locations. I attach to this declaration an e-mail from Mr. Sherrer with a detailed description of his attempts to reach Mr. Schinazi. Mr. Sherrer does not anticipate Mr. Schinazi to be a hostile inventor.
2. Mr. Sherrer informed me that due to the company's current financial situation the company was shut down during the weeks of August 5th and July 29th of 2002, which made it close to impossible to pursue this matter further during those two weeks.
3. During years 2000, 2001, and 2002 the company filed more than 100 patent applications. Due to the Chapter 11 bankruptcy proceedings, Mr. Sherrer's company could not keep a number of applications pending, so they went abandoned. The company tries to maintain as many applications covering its valuable technology pending as possible and, hopefully, have them examined and later issued as patents.

4. My firm was asked to assist Haleos Inc. in the task of keeping the pending applications alive, receiving the final authorization to proceed about 4-6 weeks ago (different cases arrived at different times). We are trying to save numerous applications with impending bar dates/expiring statutory periods, and while the best possible efforts to preserve the patent portfolio have been made, the company's shut down has made it close to impossible to obtain documents pertinent to the pending cases.

Due to the expiration of the statutory period of pendency of the above-referenced application October 19, 2002 (the last day to respond to the Notice to File Missing Parts) and the current Chapter 11 proceedings (Bankruptcy Case 7-02-01979-RKR, U.S. Bankruptcy Court for the Western District of Virginia, Roanoke Division), yet another application protecting the technology which is the claimed subject matter of the above-identified application may go abandoned.

If any additional information is required in connection with this petition, please contact the undersigned. Please charge the fee due with this petition to our deposit account 500369.

Respectfully submitted,



Maria Eliseeva, Esq., Reg. No. 43,328
Customer No. 21710
Attorney for Applicant(s)
Brown Rudnick Berlack Israels, LLP
One Financial Center
Boston, MA 02111
(617) 856-8340

Dated: _____

Aug. 15, 2002

Enclosure: 2 e-mails from David Sherrer, President of Haleos Inc.



COPY OF PAPER
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Eliseeva, Maria M.

From: Eliseeva, Maria M.
Sent: Monday, August 19, 2002 6:39 PM
To: Eliseeva, Maria M.
Subject: FW: Provisional files

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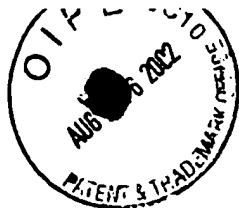
-----Original Message-----

From: David W. Sherrer [mailto:dsherrer@haleos.com]
Sent: Monday, August 19, 2002 4:52 PM
To: Eliseeva, Maria M.
Subject: RE: Provisional files

Status for inventor Robert Schinazi:

We no longer had a working number for Robert Schinazi. Rob was located in Rhode Island, but has recently relocated to somewhere in California. I was able to track down a cell phone number for Rob yesterday and am waiting on a call back. We do not anticipate him to be a hostile inventor.

-david



Eliseeva, Maria M.

From: David W. Sherrer [dsherrer@haleos.com]
Sent: Monday, August 19, 2002 5:08 PM
To: Eliseeva, Maria M.
Subject: RE: Provisional files

Maria,

Rob's previous address is:

Rob Schinazi, care of:

Rhode Flux, Inc.
265 Waterman St., Suite 3
Providence, RI 02906

We attempted to a web search for his name to produce a number. This did not locate him. Messages have been left for him. We are still waiting a call back, there is no response to date. I don't know what else to tell you. We can't get his signature until we can reach him (or he reaches us).

Thanks,

David